

**David L. Feldman**  
2050 Sharon Road, Menlo Park, CA 94025-6260  
650-714-7470 — dfeldman@zfmicro.com

September 10, 2019

Franchise Tax Board  
Tax Fraud Report  
PO Box 1565  
Rancho Cordova, CA 95741-1565

**URGENT** – Violations in progress, perpetrator may be witnessed in the act.

Attention, Tax Fraud Investigations:

I write to report that attorney Michael B. Carroll has violated various sections of the Revenue and Taxation Code by representing entities **he knew** to be **forfeited**<sup>1</sup> by the Franchise Tax Board. This occurred on numerous occasions and will be happen again in upcoming oral arguments at the Sixth District Court of Appeal. He violated numerous<sup>2</sup> other laws which, I am not reporting here.

Briefly, this attorney, knowingly, and with provable intent, aided and abetted **forfeited** clients in their evasion of California taxes and unlawful use of California courts.

Available documentation in my possession and in the courts, unequivocally proves the crimes and *mens rea* of this attorney as he aided & abetted his clients' tax evasion and other frauds. The corroborating documentation of tax evasion and other violations totals almost 1,000 pages and includes (but is not limited to) perjurious declarations filed by Attorney Carroll, supported by other documents (which I can also produce) that should result in a conviction. Attorney Carroll's sworn testimony along with that of principals of the **forfeited** entities he represented, court pleadings, and his clients' communications and publications on the internet are all is available either electronically or as hard copy. Attached is the Superior Court transcript of August 25, 2016 (Exhibit B), which is just one

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<sup>1</sup> See **Exhibit A**: June 4, 2019 certified FTB correspondence re: status of SANDS entities and TAT Capital Partners, Ltd. (the other plaintiff using the courts illegally for failure to register, file returns or pay taxes).

<sup>2</sup> Documentation of other violations (Penal Code, Business & Professions Code, Code of Civil Procedure, Corporations Code, Evidence Code, and the Welfare and Institutions Code) are available upon request.

example of this attorney's determination to mislead the court and further his clients' tax evasion. (See pgs. 3:8-5:17 and particularly Attorney Carroll at pg. 4:14-24)

**Individual/business name and address:** Michael Brooks Carroll, State Bar #54904, Law Office of Michael Brooks Carroll, 3919 Happy Valley Rd, Lafayette, CA 94549-2423, (415) 788-7600; e-mail: carroll\_law@sbcglobal.net

**Asset and income information (vehicles, property, etc.):** Unknown, except for the residence listed above

**Alleged tax violation(s):** The above referenced attorney has repeatedly continued to represent his clients, Sands Brothers Venture Capital LLC #200721610171 and SB New Paradigm Associates LLC #200721510020 (together as "SANDS"), that were **forfeited** by the Franchise Tax Board in late 2013. Additionally, he has submitted to the Santa Clara County Superior Court, fraudulent documents which he purported to be evidence of tax payments by his clients in 2011. The fact that those payments never occurred is now proven by the attached *prima facie* certified Franchise Tax Board communication confirming that no such payments occurred, establishing that the "evidence" of payment he filed in court was fraudulent and intended to aid and abet his clients continued tax evasion.

**Violation of law #1** (in 2016); ***R&TC § 19719(a)***: Filing oppositions to a motion seeking to reverse a judgment obtained fraudulently by his **forfeited** clients, which he followed with an appearance in Santa Clara County Superior Court (case # 2005-1-CV-035531) on August 25, 2016. At that hearing Attorney Carroll states to the court that his clients had never transacted intrastate business in California, were not required to pay California taxes, and that his clients had only forfeited their names in California.

**Violation of law #2** (in 2016); ***R&TC § 19705 sub. (a)(2) and sub. (d)***: By representing **forfeited** entities and claiming that they owed no tax, Attorney Carroll was also aiding and abetting SANDS' tax evasion.

**Violation of law #3** (in 2018); ***R&TC § 19719(a)***: Filing an Opposition to a Motion to Strike the pleadings of his **forfeited** clients in the Sixth District Court of Appeal (H044004). Attorney Carroll then filed a Respondent's Brief in the Sixth District Court of Appeal on behalf of his **forfeited** clients.

**Violation of law #4** (in 2018); ***R&TC § 19705 sub. (a)(2) and sub. (d)***: By submitting the Respondent's Brief on behalf of his **forfeited** clients and claiming again that they owed no tax, Attorney Carroll was again aiding and abetting SANDS' tax evasion.

**Violations of law #5 and #6** (likely to occur in 2019); ***R&TC § 19719(a)*** and ***R&TC § 19705 sub. (a)(2) and sub. (d)***: It is expected that notice from the Sixth District Court of Appeal will be received in the near future asking whether oral arguments are

requested (appeal H044004). I will respond that I do, causing oral arguments to take place in the Sixth District Court of Appeal shortly after that. It is anticipated that Attorney Carroll will appear to argue on behalf of the **forfeited** SANDS entities.

**NOTE:** If an investigator from the Franchise Tax Board appears at the Sixth District Court of Appeal at the time oral argument is heard, Attorney Carroll can be apprehended in the act of again committing these violations.

**How you became aware of the alleged violation:** I was a defendant in the case in which Attorney Carroll represented his **forfeited** clients. I was present in Court and witnessed the violations personally. Additionally, as the CEO of the company their sued unlawfully, I am a percipient witness to SANDS' transaction of intrastate business in California from November of 1999 onward throughout the commission of their illegal activities. I have hundreds of pages of documentation verifying SANDS' activities in

**Marital status:** unknown

**Supporting documents (if available):** In excess of 1,000 pages available upon request.

**Your contact information (optional):** David L. Feldman, 2050 Sharon Road, Menlo Park, CA 94025-6260; cell #650-714-7470; e-mail dfeldman@zfmicro.com

**PLEASE NOTE:** I **wish** to be contacted. I am willing, and able, to testify against Attorney Carroll, as a percipient witness and can produce a the vast amount of evidence referenced above and I can also identify other individuals who were either SANDS' employees or percipient witnesses that can also confirm SANDS transaction of intrastate business in California.

Although I should not have to contribute to the Franchise Tax Board doing its job in curbing tax evasion, I am willing to reimburse the cost of the FTB sending an enforcement agent to witness the further violations of law as they are committed at the Sixth District Court of Appeal. Additionally, I will be contacting members of the media advising them of the oral argument hearing and asking them to cover the criminal activity.

The tax evasion by the **forfeited** SANDS entities has cost the taxpayers of California many hundreds of thousands (perhaps millions) of dollars in lost tax revenues and abuse of the courts. It is time that this scofflaw attorney is brought to justice and a message sent to other such attorneys in order to curb these types of violations.

Sincerely,



David L. Feldman

# **EXHIBIT A**



June 4, 2019

**VIA EMAIL ONLY**

DAVID L. FELDMAN  
2050 SHARON ROAD  
MENLO PARK, CA 94025  
Email: [dfeldman@zfmicro.com](mailto:dfeldman@zfmicro.com)

RE: PUBLIC RECORDS ACT REQUEST

Dear Mr. Feldman:

We are responding to your correspondence (copy enclosed), received 05.17.19, which follows your previous correspondence (dated 03.26.19 and 04.19.19) under the Public Records Act, Government Code Section 6250, et seq., and our responses to those requests dated 04.18.19 and 05.02.19.

Based on your letter and the spreadsheets you provided, we understand that you are requesting us to add information to your spreadsheet. It also appears that you may be requesting the Franchise Tax Board (FTB) to certify the spreadsheets you enclosed with your letter, which are documents created by you and include information from sources other than the FTB. We are not required to certify documents you create or verify information that you provide from other sources.

Nevertheless, based on the spreadsheets you included with your request, we have provided additional information regarding the prior statuses of Sands Brothers Venture Capital, LLC, SB New Paradigm Associates, LLC, Tat Capital Partners Ltd., LLC, and Tat Investment Advisory Ltd., LLC. This is the only additional information we have that is responsive to your request dated 5.17.2019. Please note that we have also changed "N/A" to "No Records" where applicable, to indicate more clearly the items for which we do not have a record in our systems.

The information you requested is not maintained in connection with a particular tax year. For this reason, we are unable to provide the requested information by tax year. The account information provided generally has not changed since each item was first recorded.

California Government Code sections 6254(k) and 6276.06, together with California Revenue and Taxation Code (RTC) section 19542, prohibit FTB from disclosing confidential tax information of business entity taxpayers, except as provided in RTC section 19543. FTB considers information received by FTB from other sources that falls within the definition of "return information" under RTC section 19549 to be confidential under RTC section 19542. FTB reserves the right to claim any applicable exemptions, and is not waiving these exemptions by not specifically claiming them at this time.

We have provided you will all identified information available under RTC section 19543. After a diligent search, FTB has not located any non-exempt information for these entities that is responsive to your request, other than that set forth below.



**THIS IS TO CERTIFY THAT THIS IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL DOCUMENT ON FILE WITH THE  
FRANCHISE TAX BOARD.**

*JL* 06.04.2019

BUSINESS ENTITY NAME	SANDS BROTHERS VENTURE CAPITAL LLC
CORPORATE/LLC NUMBER	200721610171
ADDRESS	15 VALLEY DR GREENWICH, CT 06831-5205
DATE BUSINESS BEGAN/INCOME FIRST DERIVED IN CALIFORNIA	NO RECORD
ACCOUNT PERIOD ENDING DATE	12/31
DUE DATE OF RETURN	03/15
LAST RETURN FILED	NO RECORD
TOTAL BALANCE DUE	\$0.00
CURRENT STATUS	FORFEITED: 07/01/2014
PRIOR STATUS	ACTIVE: 08/03/2007
CERTIFICATE OF RELIEF FROM CONTRACT VOIDABILITY	NO RECORD
INCORPORATION OR QUALIFICATION DATE	08/03/2007
NAME, DATE, AND TITLE OF PERSON SIGNING AFFIDAVIT TO THE RETURN	NO RECORD
REASON FOR FORFEITED	FAILURE TO FILE & PAY

BUSINESS ENTITY NAME	SB NEW PARADIGM ASSOCIATES LLC
CORPORATE/LLC NUMBER	200721510020
ADDRESS	15 VALLEY DR GREENWICH, CT 06831-5205
DATE BUSINESS BEGAN/INCOME FIRST DERIVED IN CALIFORNIA	NO RECORD
ACCOUNT PERIOD ENDING DATE	12/31
DUE DATE OF RETURN	03/15
LAST RETURN FILED	NO RECORD
TOTAL BALANCE DUE	\$0.00
CURRENT STATUS	FORFEITED: 11/01/2013
PRIOR STATUS	ACTIVE: 08/02/2007
CERTIFICATE OF RELIEF FROM CONTRACT VOIDABILITY	NO RECORD
INCORPORATION OR QUALIFICATION DATE	08/02/07
NAME, DATE, AND TITLE OF PERSON SIGNING AFFIDAVIT TO THE RETURN	NO RECORD
REASON FOR SUSPENSION	FAILURE TO FILE

BUSINESS ENTITY NAME	TAT CAPITAL PARTNERS LTD. LLC
CORPORATE/LLC NUMBER	200918310179
ADDRESS	926 INDUSTRIAL AVE PALO ALTO, CA 94303-4911

DATE BUSINESS BEGAN/INCOME FIRST DERIVED IN CALIFORNIA	NO RECORD
ACCOUNT PERIOD ENDING DATE	12/31
DUE DATE OF RETURN	03/15
LAST RETURN FILED	NO RECORD
TOTAL BALANCE DUE	\$0.00
CURRENT STATUS	CANCELLED: 04/02/2014
PRIOR STATUS	ACTIVE: 06/30/2009
CERTIFICATE OF RELIEF FROM CONTRACT VOIDABILITY	NO RECORD
INCORPORATION OR QUALIFICATION DATE	06/30/2009
NAME, DATE, AND TITLE OF PERSON SIGNING AFFIDAVIT TO THE RETURN	NO RECORD
REASON FOR CANCELTION	NO RECORD

BUSINESS ENTITY NAME	TAT INVESTMENT ADVISORY LTD. LLC
CORPORATE/LLC NUMBER	200725410208
ADDRESS	1000 ELWELL CT STE 134 PALO ALTO, CA 94303-4306
DATE BUSINESS BEGAN/INCOME FIRST DERIVED IN CALIFORNIA	NO RECORD
ACCOUNT PERIOD ENDING DATE	12/31
DUE DATE OF RETURN	03/15
LAST RETURN FILED	NO RECORD
TOTAL BALANCE DUE	\$0.00
CURRENT STATUS	SUSPENDED: 12/02/2013
PRIOR STATUS	ACTIVE: 09/11/2007
CERTIFICATE OF RELIEF FROM CONTRACT VOIDABILITY	NO RECORD
INCORPORATION OR QUALIFICATION DATE	09/11/2007
NAME, DATE, AND TITLE OF PERSON SIGNING AFFIDAVIT TO THE RETURN	NO RECORD
REASON FOR SUSPENSION	FAILURE TO FILE

If you have any additional questions, you may contact me at the number below or Wendy Dezzani, Tax Counsel IV at (916) 845-5692.

Sincerely,

*Grace LeBleu*

Grace LeBleu  
Senior Disclosure Specialist  
(916) 845-6348

Enclosures

**PUBLIC RECORDS ACT REQUEST**

May 15, 2019

CASE #: 19-00545

RECEIVED

May 17, 2019

BY: DISCLOSURE OFFICE

VIA E-MAIL

State of California  
Franchise Tax Board  
Attention Michael Jacino  
Privacy, Security, and Disclosure Bureau  
Disclosure Section MS-A181 / SA1A-B14-08  
P.O. Box 1468  
Sacramento, CA 95812-1468

Re: **Sands Brothers Venture Capital LLC**, CA Tax Entity Number 200721610171  
**SB New Paradigm Associates LLC**, CA Tax Entity Number 200721510020  
**TAT Capital Partners, Ltd.** (only the Swiss corporation) and;  
**TAT Investment Advisory, Ltd.** (only the Netherlands Antilles Limited Partnership)

Dear Mr. Jacino:

Thank you for your previous responses regarding the above referenced entities. I appreciate receiving the documents you sent. However, what I am dealing with at the Sixth District Court of Appeal is opposing counsel whom I believe lack a moral compass and have misrepresented the law and their clients' decades-long tax evasion and unlawful activities transacting intrastate business in California. As an example, when I presented the Secretary of State website listing showing that Sands Brothers Venture Capital LLC and SB New Paradigm Associates LLC had been forfeited to the Superior Court, their attorney, Michael Carroll, stated: *"Your Honor, I also don't have anything in detail to add that even the statute that Mr. Feldman just read operates only against an entity that was required to be registered and pay taxes. As we set out in our brief, Sands has never been -- the Sands Brothers entities have never been someone who's been required to maintain even a registration. That's what's been, quote, forfeited, is that the 2007 registering of the names were forfeited."* As you know, this is an explicit misrepresentation of the law. R&TC § 23301 unequivocally states: "Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended, **and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited...**" (emphasis added) Mr. Carroll committed a crime pursuant to R&TC § 19719(a), when he filed papers and appeared in Superior Court representing a his forfeited clients. He is now doing the same thing in the 6<sup>th</sup> District Court of Appeal.

As such, I need very specific, year-by-year confirmation that these entities did not file returns or obtain contract revivor certificates. To do this I have created documents in the same format as those you recently provided, just broken down by specific timeframes.



## PUBLIC RECORDS ACT REQUEST

Page 2 of 2

In the case of TAT Capital Partners Ltd., the Swiss Corporation, and TAT Investment Advisory, Ltd., the Netherlands Antilles Limited Partnership, it should suffice to show the Court of Appeal that the Franchise Tax Board has NO RECORD of either entity because their original **verified** complaint in the Superior Court fraudulently stated that they were "duly authorized to conduct business in California."

The above referenced entities unlawfully used the courts while either unregistered and/or non-compliant with the restrictions of Corp. Code § 2203(c) imposed upon such entities that file legal actions *prior* to registering with the California Secretary of State.

I believe that the information I am requesting does not differ, in terms of confidentiality, from that which you have already provided. I am only seeking confirmation of the same data but for different timeframes. Everything should be public record and does not violate disclosure policies under the Information Practices Act, Civil Code Section 1798, et seq. or the Revenue and Taxation Code Section 19542. No information requested was provided to the Franchise Tax Board by the above referenced entities and should all be part of Franchise Tax Board records.

These entities have cost many California citizens, as well as the State treasury, many millions of dollars. They continue to waste the resources of the courts and unless their violations of the law can be adequately demonstrated to the 6<sup>th</sup> District Court of Appeal, their criminal acts will continue.

I would state once again that this request **does not** seek any documents protected pursuant to California R&TC § 19542; i.e. "*returns, reports, or documents required to be filed under this part, to disclose or make known in any manner information as to the amount of income or any particulars (including the business affairs of a corporation) set forth or disclosed therein.*"

Please let me know what changes would be required to meet Franchise Tax Board requirements and I will modify them accordingly or you may do so yourself (I am providing in Adobe pdf and Microsoft Word formats. If they are acceptable, I would appreciate their return completed bearing similar certifications to those you have already sent.

Sincerely,



David L. Feldman  
2050 Sharon Road  
Menlo Park, CA 94025  
Cell: 650-714-7470  
dfeldman@zfmicro.com

# **EXHIBIT B**

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA  
HON. CARRIE A. ZEPEDA, DEPARTMENT 20

-- oOo --

TAT INVESTMENT ADVISORY, LTD., )  
et al., )  
 )  
Plaintiffs, )  
vs. ) No. 2005-1-CV-035531  
 )  
DAVID L. FELDMAN, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

-- oOo --

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, AUGUST 25, 2016

APPEARANCES:

For Plaintiff TAT Capital Partners:

**MATTHEW S. KENEFICK, Attorney at Law**

For Plaintiff Sands Brothers Venture Capital and SB New  
Paradigm Associates:

**THOMAS BROOKS CARROLL, Attorney at Law**

For Defendant David L. Feldman:

**APPEARING IN PRO PER**

-- oOo --

Reported by: Susan Vaughan, CSR #9673

1 SAN JOSE, CALIFORNIA

THURSDAY, AUGUST 25, 2016

2 MORNING SESSION

3 -- oOo --

4 THE COURT: Good morning, everybody. This is the matter  
5 of TAT Capital Partners and TAT Investment Advisory, LTD -- I  
6 believe Sands is also a defendant, correct? -- versus David  
7 Feldman.

8 MR. CARROLL: A plaintiff, Your Honor. The two Sands  
9 entities are plaintiffs, Your Honor.

10 THE COURT: Thank you. I apologize. That's not in the  
11 caption I was I was reading it off of. Counsel, state your  
12 appearances, please.

13 MR. KENEFICK: Good morning, Your Honor. Matt Kenefick  
14 on behalf of plaintiff TAT Capital Partners.

15 MR. CARROLL: Michael Brooks Carroll, Your Honor, on  
16 behalf of Sands Brothers Venture Capital and SB New Paradigm  
17 Associates.

18 MR. FELDMAN: Good morning, Your Honor. David Feldman  
19 appearing pro se on my own behalf.

20 THE COURT: Thank you. All right.

21 All right. This morning we are here on defendant David  
22 Feldman's notice of motion for an order setting aside and  
23 vacating the judgment entered herein and compelling the  
24 plaintiffs and their attorneys to return all monies obtained  
25 from the moving party and all other defendants.

26 I have read the moving papers. I have read the  
27 opposition from both plaintiffs and I've also read the reply  
28 that was submitted by Mr. Feldman. Is there anything to add to

1 the papers?

2 Mr. Feldman, you can go first.

3 MR. FELDMAN: Yes. Would you like me to stand?

4 THE COURT: You can stand. But I don't want a repeat of  
5 what's in your papers. Understood?

6 MR. FELDMAN: Understood.

7 THE COURT: Thank you.

8 MR. FELDMAN: The first thing I would like to to bring up  
9 is that I don't believe that the Sands entities can be  
10 represented and that their motion should be stricken. They are  
11 currently forfeited. I've brought, as of last night, the  
12 downloads from the Secretary of State's website showing that  
13 both of the Sands entities are forfeited, and according to  
14 Revenue Taxation Code Section 23301, the only thing they are  
15 allowed to do, it says, "except for the purposes of filing an  
16 application for exempt status or amending the articles of  
17 incorporation as necessary either to perfect the application or  
18 to set forth a new name, the corporate powers' rights and  
19 privileges of a domestic taxpayer may be suspended and the  
20 exercise of the corporate powers, rights and privileges of a  
21 foreign taxpayer in this state may be forfeited if any of the  
22 conditions occur," and lists the conditions.

23 But according to this, they are not -- they cannot be  
24 represented, and I believe that their opposition should be  
25 stricken because they have been suspended -- I mean forfeited  
26 since 2014 for never having filed returns in the State of  
27 California at any time. And I have those documents as well  
28 from the Franchise Tax Board.

1 THE COURT: Okay. Thank you. Is that all?

2 MR. FELDMAN: Do you have any questions about the issues  
3 in my reply or the issues of the jurisdiction, regarding the  
4 Sands entities, regarding the statute of limitations having  
5 already run at the time that they registered?

6 THE COURT: No. I've read the motions. I've done  
7 research and I don't have any questions for you at this time.  
8 Thank you.

9 Mr. Kenefick, do you want to go next?

10 MR. KENEFICK: Your Honor, unless you have any questions,  
11 TAT submits.

12 THE COURT: Thank you. I don't have any questions.

13 Mr. Carroll?

14 MR. CARROLL: Your Honor, I also don't have anything in  
15 detail to add that even the statute that Mr. Feldman just read  
16 operates only against an entity that was required to be  
17 registered and pay taxes. As we set out in our brief, Sands  
18 has never been -- the Sands Brothers entities have never been  
19 someone who's been required to maintain even a registration.  
20 That's what's been, quote, forfeited, is that the 2007  
21 registering of the names were forfeited. It only operates  
22 against a foreign corporation required to pay taxes. We didn't  
23 engage in any interstate business that required us to pay  
24 taxes.

25 Thank you, Your Honor.

26 MR. FELDMAN: Your Honor, may I respond?

27 THE COURT: Go ahead.

28 MR. FELDMAN: That is not correct. I've spoken to the

1 Franchise Tax Board. I've read case law on all of this. Once  
2 they registered, that registration is a statement to the  
3 Secretary of State that they are transacting business in the  
4 State of California. And whether they continued to transact  
5 business or not, that was a statement to the State of  
6 California that they were transacting business. There is ample  
7 evidence to prove that they were transacting business. This is  
8 the first time throughout the entire time, before the trial,  
9 during the trial -- the Sands entities never claimed that they  
10 were not transacting business in California. They repeated on  
11 a number of occasions that they were registered and therefore  
12 able to go forward. They are forfeited. They are not allowed  
13 to appear, even registering that first year unless, the law is  
14 clear, unless within 15 days they contacted the Secretary of  
15 State and said, "We're withdrawing our registration," they owed  
16 taxes for that year. And as long as they continue to owe  
17 taxes, they remain forfeited and cannot appear.

18 THE COURT: Mr. Feldman, wasn't this issue regarding  
19 standing by the plaintiffs an issue that was brought forth in  
20 the trial and was decided on?

21 MR. FELDMAN: No. In fact, it is the issue of standing  
22 -- currently neither TAT nor Sands understands the difference  
23 between capacity and standing. If one reads the affirmation --

24 THE COURT: Whatever it is, this issue was previously  
25 raised, right, during the trial? It was a motion in limine,  
26 and you also raised this on appeal as to whether or not the  
27 plaintiffs had properly registered with the Secretary of State,  
28 correct?

1 MR. FELDMAN: No.

2 THE COURT: Those issues -- Mr. Kenefick or Mr. Carroll,  
3 wasn't that an issue in the trial or on appeal?

4 MR. KENEFICK: Yes, Your Honor. As set forth in our  
5 opposition papers, this decision has been thoroughly decided  
6 both by this court -- by the court of appeal both in their  
7 opinion and also their denial for the motion or petitions for  
8 re-hearing and then all the way up to the California Supreme  
9 Court when that petition was denied. This issue has been  
10 decided more than once.

11 MR. FELDMAN: Your Honor, I have the two transcripts from  
12 the two hearings on the motion for plea and abatement before  
13 Judge Komar. In both of those he said that he was not ruling  
14 on the issue because he did not have the facts before him and  
15 an evidentiary hearing was required.

16 What he denied was the motion, because he said the motion  
17 had been submitted improperly or inappropriately, that this had  
18 to be done through a demurrer. But the law is clear that  
19 because they had filed a verified complaint stating that they  
20 were duly authorized to conduct business in the State of  
21 California, we were prohibited from filing, from questioning  
22 that in a demurrer; it had to be brought up through a plea and  
23 abatement, which was denied because Judge Komar believed it had  
24 been submitted improperly.

25 But in the record, and I can read it to you if you care  
26 to see it, but Judge Komar clearly states, "I don't have the  
27 evidence before me. This requires an evidentiary hearing,"  
28 which we tried to have just before the trial. But at that



1 point TAT misled the Court and said that Judge Komar -- and  
2 it's in the court transcript that Judge Komar said, and I  
3 quote, "We do not have to register." That was never said by \*  
4 Judge Komar. If they will produce any place in the court  
5 record where Judge Komar actually said the words, "TAT does not  
6 have to register," then I will yield on that point.

7 THE COURT: All right. Thank you.

8 In this matter, even without considering the opposition,  
9 I have to determine whether or not there is legal authority or  
10 grounds for the motion that's before me. And at this time I  
11 find that procedurally there is no authority for this motion  
12 and it is quite untimely.

13 In addition, the appeals court has already spoken to all  
14 the issues that were raised during the trial, and they affirmed  
15 this Court's decision. A similar motion to this was brought  
16 then after the appeal, maybe in -- I want to say 2013; I'm not  
17 sure on the date. But I also denied that motion. At this  
18 time, again, there's no legal basis or legal authority for this  
19 Court to grant this motion. Therefore it is denied.

20 I don't have an order. Mr. Kenefick, do you have one or  
21 can you submit one to the Court?

22 MR. KENEFICK: I can circulate one pursuant to 3.1312 to  
23 Mr. Feldman and then to the Court within five days.

24 THE COURT: Thank you.

25 MR. CARROLL: Your Honor, in our reply papers we did make  
26 the request under 128.5 for the award of sanctions on the  
27 grounds that this motion, because of the principle of finality  
28 and the number of times it has been made, that issue's been

1 made and decided, is frivolous. And it's clear that  
2 Mr. Feldman keeps bringing this up for the purpose of denying  
3 the opposing parties, who have won seven times on this issue,  
4 their due process rights. And in every case that goes on as  
5 long as this has, there is not only the law of the case but  
6 there's certain truths of the case. We all know that unless  
7 the Court takes some direct, affirmative action, this will  
8 continue.

9 We have moved under 128.5, Your Honor, for the award of  
10 \$5,000 in attorney's fees and \$150 in costs, because what has  
11 been done here, as corroborated by the Court's ruling, is the  
12 bringing of repetitive motions that is without merit that's  
13 being done for the purpose of burdening the opposing parties  
14 who have won and who are being denied their due process rights  
15 every time this is brought up again.

16 Thank you.

17 MR. FELDMAN: May I respond, Your Honor?

18 THE COURT: You may.

19 MR. FELDMAN: First of all, again I strongly object to  
20 the fact that Mr. Carroll is being allowed to participate here,  
21 as he is representing forfeited entities. That aside, in both  
22 of their responses they implied that I was a vexatious  
23 litigant. And a reading of -- first of all, this is the first  
24 time that I have appeared in this court pro se. A reading of  
25 C.C.P. Section 391 defines what a vexatious litigant is, and I  
26 have it here, if the Court would like a copy of it. But it is  
27 clear that --

28 THE COURT: I would agree that you have not been deemed a

1 vexatious litigant.

2 MR. CARROLL: We are not seeking sanctions on that ground  
3 but on 128.5, subsection B, which gives the Court the power  
4 when there is a motion that's made that is frivolous -- which  
5 this motion is, based upon the repetitive times it's been  
6 denied -- to award attorney's fees and costs to the opposing  
7 party.

8 MR. FELDMAN: Your Honor, may I respond?

9 THE COURT: You can.

10 MR. FELDMAN: This is not, as both parties stated, the  
11 third time this is being brought before this Court. I believe  
12 I submitted a copy of the indictment against the attorneys --  
13 attorney and disbarred attorney -- who defrauded all of the  
14 defendants, and that hearing is null and void. There was no  
15 representation for me or for any of the other attorneys. The  
16 district attorney does not indict attorneys frivolously. They  
17 have reviewed this for more than nine months and they deemed  
18 that we had been defrauded, that it was extrinsic fraud, and  
19 therefore they indicted these people.

20 As a result of finding out that every single forgery of  
21 documents submitted when that motion was filed in late 2013 and  
22 heard in 2014, every single document was forged, even the  
23 substitutions of counsel -- as a result, we had no  
24 representation. That was not our fault, and therefore this is  
25 not the third time we are bringing this motion.

26 And I again -- I don't remember what statute Mr. Carroll  
27 is asking for sanctions. He has no right to be in court, nor  
28 do the Sands entities, and it would be inappropriate, I

1 believe, to grant any sanctions based on statements made by an  
2 entity that legally cannot be here or represented.

3 THE COURT: I didn't think, Mr. Feldman, that I saw  
4 anything in your reply opposing Mr. Carroll's request for  
5 attorney's fees or that it was in any way inappropriate given  
6 the number of hours or hourly fee. Am I correct?

7 MR. FELDMAN: Right in the introduction I said Sands'  
8 opposition to defendant David Feldman's motion should not be  
9 considered by this Court; it has been submitted on behalf of  
10 two entities that have been forfeited by the California  
11 Secretary of State --

12 THE COURT: I know that argument. But I meant the number  
13 of hours that Mr. Carroll said that he spent in preparing this  
14 motion or his hourly fee. I didn't see any opposition to that.

15 MR. CARROLL: That's correct, Your Honor.

16 THE COURT: Is that right? There was nothing in the  
17 reply brief?

18 MR. CARROLL: And we submitted the declaration,  
19 Your Honor, attesting to that.

20 MR. FELDMAN: I would also like to comment on, if I may,  
21 just briefly, on the declaration that was submitted by  
22 Mr. Carroll from a supposed manager at Sands Brothers.

23 I could not find him on Sands Brothers' website. When I  
24 did find the person, he's 27 years old. I don't think he could  
25 have -- he was in high school when all of this happened. So  
26 for him to say that he of his own knowledge knows that Sands  
27 brothers did not transact business in California, I think, was  
28 perjury, and I think that perjury may have been suborned by

1 Mr. Carroll.

2 Additionally, they submitted two checks dated in 2011  
3 with no view of the back side of those checks. So that's no  
4 proof that they even paid in 2011. And neither of those checks  
5 has a taxpayer I.D. number on them, which is required in order  
6 to submit them. That would be like sending in an \$800 donation  
7 to the Franchise Tax Board, if there's no indication of who is  
8 being paid for that. I would submit that much of the work done  
9 by Mr. Carroll was, again, intended to deceive the Court and  
10 was not required, especially since he could not be representing  
11 them as they were forfeited.

12 THE COURT: Thank you.

13 All right. I find good cause to award Mr. Carroll his  
14 attorney's fees in this matter. You will receive 15 hours for  
15 your work at \$450 per hour. But I will only give you 2.5 hours  
16 for being here this morning, an hour traveling from  
17 San Francisco, an hour back, and then a half hour for being in  
18 court.

19 MR. CARROLL: Is that in addition to the 15, Your Honor?

20 THE COURT: Yes. So I calculated \$7,875 for the  
21 attorney's fees, plus 150 in costs, for a total of 8,025.

22 You can prepare that order, Mr. Carroll.

23 MR. CARROLL: Thank you, Your Honor.

24 THE COURT: I agree that, given that this matter has  
25 already been affirmed on appeal and this is the second time  
26 we've come back on a motion to vacate the judgment and given  
27 that there's no legal authority, it is frivolous at this time.

28 MR. FELDMAN: I believe I did cite legal authority,

1 Your Honor.

2 THE COURT: That's the decision. Thank you all very much  
3 for being here.

4 MR. KENEFICK: Thank you, Your Honor.

5 MR. CARROLL: Thank you.

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2 CERTIFICATE OF OFFICIAL SHORTHAND REPORTER  
34 State of California )  
5 County of Santa Clara ) ss.  
67 I, SUSAN VAUGHAN, certify that I am a Certified Shorthand  
8 Reporter and that I recorded verbatim in stenographic writing  
9 the proceedings had THURSDAY, AUGUST 25, 2016, in the matter of  
10 TAT INVESTMENT ADVISORY, LTD., et al., Plaintiffs, vs. DAVID L.  
11 FELDMAN, et al., Defendants, Case No. 2005-1-CV-035531,  
12 completely and correctly to the best of my ability; that I have  
13 caused said stenographic notes to be transcribed into  
14 typewriting, and the foregoing constitutes a complete and  
15 accurate transcript of said stenographic notes taken at the  
16 above-mentioned proceedings.17 I further certify that I have complied with CCP 237(a)(2)  
18 in that all personal juror identifying information has been  
19 redacted, if applicable.  
2021 Dated: October 7, 2016  
22  
2324 Susan Vaughan, RPR, CSR No. 9673  
25  
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